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10/597,721	08/04/2006	Jieru Chen	NFE-110 US	5398

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EXAMINER

HAYES, KRISTEN C

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,721	Applicant(s) CHEN, JIERU	
	Examiner Kristen C. Hayes	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. However, an English translation of the foreign application CN 200410015306.0 has not been received.

Specification

2. The disclosure is objected to because of the following informalities: the specification discloses a non-powered carriage for pets. However, it also discloses the non-powered carriage being connected to a human powered device. The non-powered carriage being connecting to a human powered device would make the carriage powered.

Appropriate correction is required.

Claim Objections

3. Claims 2, 3 and 5 contain unnecessary capitalization of words such as "Wheels" (claim 2), "Top Cover" (claim 3), "Flat Board", "Floor" and "Hole" (claim 5), "Pets" (claim 6) and "Pets" (claim 8).

4. Claims 2 and 6 recite the limitation of at least two wheels fixed under the floor. However, the drawings only show two wheels fixed under the floor.

5. Claim 3 recites the limitation of the top cover being made of transparent or non-transparent material. The criticality of the transparency of the top cover is questioned, as it can be transparent or non-transparent.

6. The wording of claim 4 is confusing. It is suggested that "a top tent is over" be changed to --and further comprising a top tent is over--.

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7. Claims 6 and 8, line 4 should be changed from "... said boards..." to --said side boards-- to maintain the continuity of the claims.
8. The wording of claim 6 is confusing. It is suggested that "handled for pushing" be changed to --and a handle ~~handled~~ for pushing--.
9. Claim 7 recites the limitation of three wheels fixed under the floor. However, the drawings only show two wheels fixed under the floor.
10. Claim 7, line 2 should be changed from "the number of said wheel" to --and the number of said wheels--.
11. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claim 10 recites the limitation of the driving device being powered by a storage battery. However, this is not disclosed by the specification.

Claim Rejections - 35 USC § 112

12. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

13. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 10 recites the limitation of the driving device being powered by a storage battery. However, it is undisclosed by the specification how the storage battery is used to power the driving device, how the storage

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battery is connected to the driving device in a way which would enable it to be used efficiently.

The spec does not enable one to make or use the storage battery to power the driving device.

14. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

15. Claims 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

16. Claims 6 and 8, line 5 claims "a hole on floor". It is unknown if this is the floor previously claimed or a new floor.

17. Claims 8 and 9 recite the limitation of the non-powered carriage having a driving device with three wheels. However, it is unclear as to which elements of the non-powered carriage the driving device is.

18. Claim 8 recites the limitation of a non-powered carriage for pets comprising a driving device. However, claim 8 also recites the limitation of the driving being a human powered device. The human powered driving device being part of the non-powered carriage would make the carriage a powered device.

Claim Rejections - 35 USC § 102

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

20. Claims 1-3, 5, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Roy US 6,267,080.

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21. Regarding claim 1, Roy discloses a non-powered environment-protective sightseeing carriage comprising wheels (21), a compartment having a floor (4), side boards (Roy, Figure 3), a top cover (14), vessels for food and water provided in the compartment (Roy, column 2: lines 17-18), a hole (8) on the floor with a dropping tray (15) under it, with at least one of the side boards being transparent (Roy, column 4: lines 26-31).
22. Regarding claim 2, Roy further discloses the number of wheels being two (Roy, Figure 3).
23. Regarding claim 3, Roy further discloses the top cover being made of transparent or non-transparent material (Roy, column 4: lines 26-31).
24. Regarding claim 5, Roy further discloses a flat board (19) may be put on said floor and said hole (Roy, column 4: lines 6-11).
25. Regarding claim 6, Roy discloses a non-powered environment-protective sightseeing carriage comprising a compartment defined by a floor (4), side boards (Roy, Figure 3), with at least one of the side boards being transparent (Roy, column 4: lines 26-31), a top cover (14) located on the tops of the boards, vessels for food and water provided on said floor (Roy, column 2: lines 17-18), a hole (8) on the floor with a dropping tray (15) under it, two wheels (21) fixed under the floor, handled (24) for pushing fixed on the floor.
26. Regarding claim 8, Roy discloses a non-powered environment-protective sightseeing carriage comprising a compartment defined by a floor (4), side boards (Roy, Figure 3), with at least one of the side boards being transparent (Roy, column 4: lines 26-31), a top cover (14) located on the tops of the boards, vessels for food and water provided on said floor (Roy, column 2: lines 17-18), a hole (8) on the floor with a dropping tray (15) under it, and a driving device (considered 21) powered by human foot (in that the device is pushed with the handlebar

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and wheels by a walking human)(Roy, column 3: lines 52-55) fixed under said floor (as best understood).

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. Claim 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Roy US 6,267,080 in view of Leader et al US 5,113,793.

29. Regarding claim 4, Roy further discloses the top cover being made of transparent material (Roy, column 4: line 26-31). Roy does not disclose a top tent. Leader et al. discloses a pet carriage with a top tent (2) covering a top cover (21). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Roy to include a top tent, as taught by Leader et al., so that the pet and device would be protected from elements such as rain and sun.

30. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roy US 6,267,080.

31. Regarding claims 7 and 9, Roy further discloses one of the side boards having a small door (5). Although Roy discloses two wheels (21), three wheels are not disclosed. However, the examiner takes official notice that tri-wheeled carriages are known in the art (as evidenced by US 6,913,271; US 5,344,171; US 4,796,565). Furthermore, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St.*

Regis Paper Co. v. Bemis Co., 193 USPQ 8. It would have been obvious to one of ordinary skill

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in the art at the time of the invention to modify the number of wheels of Roy depending on the amount of wheels that would allow the device to be easily and stably rolled.

32. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roy US 6,267,080 in view of Palmer US 4,113,043.

33. Regarding claim 10, Roy discloses the device of claim 8 but does not disclose the driving device being powered by a storage battery. Palmer teaches a carriage (260) with a driving device powered by a storage battery (26). The battery powering the driving device would lessen the amount of human foot power required to propel the device. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the driving device of Roy with a storage battery, as taught by Palmer, to predictably reduce the manual exertion required to propel the device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen C. Hayes whose telephone number is 571-270-3093. The examiner can normally be reached on Monday-Thursday, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571)272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCH
16 July 2008

/Rob Swiatek/
Primary Examiner
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